

August 11, 2015

Mr. John Canoles  
Eco-Science Professionals, Inc.  
P O Box 5006  
Glen Arm, Maryland 21057

Re: Ellerslie Property  
Forest Conservation Variance  
Tracking # 03-15-2011

Dear Mr. Canoles:

A request for a variance from the Baltimore County Code Article 33, Title 6 Forest Conservation was received by this Department of Environmental Protection and Sustainability (EPS) on June 24, 2015 and a revised request was received July 15, 2015. This request proposes to remove five (5) specimen trees for the construction of a 35-lot residential subdivision in addition to the three specimen trees already approved for removal on January 6, 2014.

The Director of EPS may grant a special variance to the Forest Conservation Law in accordance with criteria outlined in Section 33-6-116(d)(1) of the Code. There are six (6) criteria listed in Subsection 33-6-116(d) and (e) that shall be used to evaluate the variance request. One (1) of the criteria under Subsection 33-6-116(d) must be met, and all three (3) of the criteria under Subsection 33-6-116(e) must be met, in order to approve the variance.

The first criterion (Subsection 33-6-116(d)(1) of the Code) requires the petitioner show the land in question cannot yield a reasonable return if the requirement from which the special variance is requested is imposed and will deprive the petitioner of beneficial use of his property. The applicant is seeking to create a residential subdivision on an existing farm. A residential subdivision could occur without the removal of the additional five specimen trees. Full application of the law to the entire property would not result in unwarranted hardship to the applicant, and we find that this criterion has not been met.

The second criterion (Subsection 33-6-116 (d)(2) of the Code) requires that the petitioner show that his/her plight is due to unique circumstances and not the general conditions of the neighborhood. The site contains twenty two specimen trees, fourteen of

which will be retained. All five trees are situated in locations that would be adversely affected by grading for roads and stormwater management facilities. Two of the five trees are in poor condition, and a third is in fair condition and leaning. The neighborhood is already developed and therefore the circumstances here are unique and not related to the conditions of the neighborhood. Therefore, we find the second criterion has been met.

The third criterion (Subsection 33-6-116(d)(3) of the Code) requires that the petitioner show that the special variance requested will not alter the essential character of the neighborhood. The property is surrounded by forest and low density residential development. The forest on site will remain, as will most of the specimen trees. The proposal to remove five additional specimen trees as part of the proposed subdivision will not change the character of the neighborhood. Therefore, we find that this criterion has been met.

The fourth criterion (Subsection 33-6-116(e)(1) of the Code) requires that the granting of the special variance will not adversely affect water quality. The new construction will meet all stormwater management requirements as well as sediment and erosion control techniques during and after construction. The specimen trees proposed for removal are not within or adjacent to any streams, wetlands or forest buffers. Therefore, we find that granting of the special variance will not adversely affect water quality, and that this criterion has been met.

The fifth criterion (Subsection 33-6-116(e)(2) of the Code) requires that the special variance request does not arise from a condition or circumstance that is the result of actions taken by the petitioner. The petitioner has not removed the specimen trees. Therefore, this criterion has been met.

The sixth criterion (Subsection 33-6-116(e)(3) of the Code) requires that the Director of EPS find that the special variance, as granted, would be consistent with the spirit and intent of Article 33 of the Baltimore County Code. The specimen trees are not within the existing forest. Mitigation will be required for the specimen tree removal. Therefore, this criterion has been met.

Based on our review, this Department finds that all of the required criteria have been met. Therefore, the variance request is hereby approved, in accordance with Section 33-6-116 of the Baltimore County Code contingent with the following conditions:

1. Add the following note to all plans for this project: "A Forest Conservation Special Variance was approved by the Baltimore County Department of Environmental Protection and Sustainability to allow the removal of five

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additional specimen trees. Mitigation, through payment of a fee-in-lieu, was required.”

2. A mitigation fee-in-lieu of \$4,531.00 for the specimen tree impacts will be required.

It is the intent of this Department to approve this variance subject to the above condition. Any changes to site layout may require submittal of revised plans and an amended variance request.

Please have the property owner sign the statement below and return a signed copy of this letter to this Department within 21 calendar days. Failure to return a signed copy may render this approval null and void, or may result in delays in the processing of plans for this project.

If you have any questions regarding this correspondence, please call Ms. Regina Esslinger at (410) 887-3980.

Sincerely yours,

Vincent J. Gardina  
Director

VJG/rae

I/we agree to the above conditions to bring my/our property into compliance with Baltimore County's Forest Conservation Law.

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Property Owner's Signature

Date

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Property Owner's Printed Name